REMARKS

This amendment responds to the Final Office Action mailed 01/10/08 . Claims 1-26 and 57-95 are pending. Claims 1, 2, 7, 8, 9, 10, 16, 17, 21, 23, 57, 58, 62, 64, 68, 69, 71, 76, 77, 81, 83, 87, 88, and 90 have been amended to recite further distinguishing characteristics. New claim 95 has been added to round out the scope of protection sought, support for which may be found at least at FIGS. 5-6 and paragraphs 0052 and 0055 of the published application, for example. No new matter has been added. Reconsideration of this application is respectfully requested in light of the remarks and amendments herein.

Telephone Discussion of April 14, 2008

On April 14, 2008, Applicants' representative Douglas Pearson contacted Examiner Myhre by telephone to discuss a potential amendment to claim 1 and other independent claims, the potential amendment being substantially similar to the claim amendments presented herein. The Examiner indicated that he did not believe he would enter such claim amendments after Final, since he believed such claim amendments would require further consideration and search. Accordingly, the present Amendment is being submitted with a Request for Continued Examination (RCE) to gain entry.

Art Rejections

In the Office Action, claims 1-26 and 57-94 stand rejected as allegedly anticipated under 35 U.S.C. § 102(e) by U.S. Patent No. 6,374,177 ("Lee"). This rejection is respectfully traversed.

Independent claim 1 is directed to a method for communicating data content. Claim 1 as amended recites, among other things:

> accumulating said information regarding said <u>plurality of</u>
> <u>actions</u> until a predetermined threshold associated with said
> plurality of actions is reached, and

> after reaching said threshold, communicating a request for said
> <u>multiple items of data content</u> of interest.

In contrast, Lee does not disclose accumulating information regarding *a plurality of actions* until a predetermined threshold is reached, and then communicating a request for *multiple items of data content of interest*. As described by the Applicant in paragraph [0059] of the present application, a technique for bulk buying by reaching a predetermined threshold can provide uplink network efficiencies. In contrast, the portion of Lee relied on by the

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examiner for allegedly disclosing these features (Final Office Action dated 1/10/08 at p. 3) recites, among other things:

> In one embodiment of the system 10 , when a user wishes to purchase **a product** or get more information about **a product** while in the vehicle 184 , the user can press a "BUY" or "INFO" button on the multimedia device 20 , which transmits to the gateway network 30 the location of his vehicle 184 (GPS derived), the date and time of the button press, and the channel selected. **The advertised item** is then looked up in the database 196 , and the user is charged for its delivery or is sent more information about the product. In an alternative embodiment, enhanced advertising information for short periods of time may be pushed to the multimedia device 20 from the gateway 30 at set intervals. **Only those ads offering immediate purchase** or additional information will preferably show indicators for these actions. (emphasis added) Lee at col. 11, lines 20-28.

Based on the above, it is apparent that Lee is directed to ordering **a single product** by transmitting the location of the user's vehicle and the date and time of a button press. Moreover, using such a technique of **immediately** transmitting location, date and time necessarily precludes accumulating information regarding a plurality of actions associated with multiple items of data content of interest and then communicating a request for the multiple items of data content. As such, Lee suffers from a shortcoming in the art that can be solved by Applicant's presently claimed embodiments. For instance Applicant's disclosed thresholding can "provide for an appropriate mechanism for purchasing such digital content, while keeping in mind the limited bandwidth considerations." See paragraphs [0023] and [0059] of the present application ("thresholding helps to spread out uplink access"). Accordingly, Lee does not disclose all of the features of claim 1. Independent claims 57 and 76 are similarly distinguishable over Lee. For at least these reasons, withdrawal of the rejection of claims 1, 57 and 76 is respectfully requested.

The Examiner's comments at page 7 of the Final Office Action support Applicant's above-described assessment of Lee relating to ordering a single product with a given button press. In particular, the Final Office Action, in rejecting the currently pending claims, states at page 7 therein, "Lee discloses that the system does not communicate the request for said data content of interest until after the user has initiated at least one action – pressing the BUY or INFO buttons. Thus, the threshold value which the user must reach before the request is sent has been set to one, which reads on the claim of "tracking one or more actions." As noted above, the independent claims have been amended to clearly reflect that a plurality of actions entered into a man machine interface are tracked for multiple items of data content of

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interest, which is clearly distinguishable over Lee's disclosure relating to ordering one item by transmitting location information, date and time at the time of the button press.

Independent claim 16 is directed to a method for requesting data content. Claim 16 as amended recites, among other things:

> tracking a plurality of actions entered in said man-machine interface relating to said rendered broadcast information, said plurality of actions associated with multiple items of data content of interest; and
>
> after a predetermined threshold associated with said plurality of actions is reached, communicating a request for said multiple items of data content of interest.

Claim 16 is distinguishable over Lee for reasons similar to those described above in connection with claim 1. Specifically, using a technique of immediately transmitting location, date and time precludes tracking a plurality of actions associated with multiple items of data content of interest and then communicating a request for the multiple items of data content. Independent claims 68 and 87 are similarly distinguishable over Lee. For at least the above-noted reasons, withdrawal of the rejection of claims 16, 68 and 87 is respectfully requested.

The remaining dependent claims are allowable at least by virtue of dependency from claims 1, 16, 57, 68, 76 and 87, and their allowance is respectfully requested.

Moreover, various dependent claims recite subject matter not found in Lee. For example, regarding claims 13, 25, 65, 74, 84 and 93, contrary to the examiner's suggestion, Lee does not disclose at col. 11, lines 16-34, a predetermined threshold that is either a threshold indicating either a number of actions to be recorded before placing said electronic order, or a threshold indicating either a download time limit or content size, before placing said electronic order. As discussed above with regard to claim 1, it is apparent that this section of Lee does not disclose any type of threshold whatsoever.

Additionally, regarding claims 14, 26, 66, 75, 85, and 94, the examiner asserts that Lee discloses that "the threshold is part of the user's profile," and that "it would be inherent that the user would be able to modify the threshold." Final Office Action dated 1/10/08 at p. 8. The disclosure of Lee does not appear to support this assertion. Lee recites, among other things, "[u]ser profile databases 198 [that] contain information about the user's system preferences (e.g., channels selected), billing information and a purchasing interest profile." Col. 11, lines 34-36. There is no disclosure in Lee that pertains to a predetermined threshold as claimed (for reasons discussed with regard to claim 1) nor modifying such a threshold over
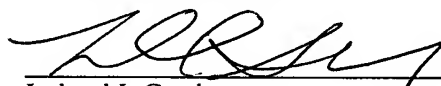
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a network. Furthermore, if the examiner is relying on inherent disclosure of Lee, then the examiner is invited to provide evidence clearly showing that the missing descriptive matter is necessarily present in Lee as required by MPEP § 2131.01(III).

New claim 95 added herein is allowable at least by virtue of dependency.

In light of the above amendments and remarks, the Applicant respectfully requests that the Examiner reconsider this application with a view towards allowance. The Examiner is invited to call the undersigned attorney if a telephone call could help resolve any remaining items.

Respectfully submitted,

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Leland I. Gardner   59,512
JONES DAY   (Reg. No.)
51 Louisiana Avenue, N.W.
Washington, D.C. 20001-2113
(202) 879-3939

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